

**GOVERNMENT OF THE DISTRICT OF COLUMBIA
DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS
OFFICE OF THE ZONING ADMINISTRATOR**



February 14, 2011

Norman M. Glasgow, Jr.
Steven E. Sher
Director of Zoning and Land Use Services
Holland & Knight LLP
2099 Pennsylvania Avenue, N.W. - Suite 100
Washington D.C. 20006

Re: Parcel 7 PUD, Square 912, Lot 55 - Distribution of Inclusionary Units

Gentlemen:

This is to confirm the substance of our discussion on Monday, January 24, 2011, and my subsequent follow-up discussions with the Office of the Attorney General concerning the above-referenced project. The proposed redevelopment of the site and replacement of the present shopping center known as the H Street Connection was approved as a planned unit development (PUD) by the Zoning Commission in Order No. 10-03, dated November 8, 2010, effective January 14, 2011.

The question you posed to me is whether Chapter 26 of the Zoning Regulations and the conditions of Order No. 10-03 require that inclusionary units must be located on the top two floors (floors 7 and 8) of the approved building. It is my conclusion, that the top two floors of the building may be used entirely for market rate units, provided that you meet the requirements of Chapter 26, based on the following analysis.

The PUD order sets forth the requirements for affordable residential units in Condition No. 5 of the section related to Public Benefits. That Condition provides that:

"For so long as the project exists, the project shall dedicate a minimum of eight percent of the residential gross floor area for affordable residential units. The affordable units shall be affordable to households earning up to 80% of the area median income. The affordable units shall be distributed vertically and horizontally throughout the residential portion of the building and shall not be overly concentrated on any floor of a project."


Section 2605 of the Regulations sets out the development standards applicable to projects subject to inclusionary zoning. Section 2605.6 provides that "Inclusionary units shall not be overly concentrated on any floor of a project." In my interpretation, nothing in Section 2605 or elsewhere in Chapter 26 requires that inclusionary units be evenly distributed throughout a project on each floor.

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Accordingly, it is my view, that you are not required to locate inclusionary units on the top two floors of the building.

Please let me know if I may be of further assistance.

Sincerely, 
Matthew Le Grant
Zoning Administrator